IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.06.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.1690 of 2004

State by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Dharmapuri,
Cr.No.2/AC/2000 .. Petitioner

vs.

1.R.Sasikala (A6)
2.K.Pachiappa Gounder (A7) .. Respondents

Prayer: This Revision petition has been preferred against order dated 23.6.2004 made in Crl.M.P.No.421 of 2003 in C.C.No.1 of 2003 on the file of the Chief Judicial Magistrate No.I, (Special Judge), Dharmapuri at Krishnagiri.

For Petitioner : Mr.V.R.Balasubramanian
Additional Public Prosecutor

For Respondents : Mr.V.Gopinath, Senior Counsel
for Mr. M.Selvam

ORDER

This revision has been preferred against the order passed by the learned Chief Judicial Magistrate No.I, Dharmapuri at Krishnagiri, in Crl.M.P.No.421 of 2003 in C.C.No.1 of 2003. The petitioners, who are arrayed as A6 and A7 in C.C.No.1 of 2003, have filed Crl.M.P.No.421 of 2003 under Section 239 of Cr.P.C., for discharge.

2. The learned trial Judge after going through the records and also after giving due deliberations to the submissions made by the learned counsel appearing for the petitioners and the Deputy Legal Adviser for the respondent, has held that there is prima facie no material produced by the prosecution to proceed against the petitioners viz. A6 and A7 and accordingly, discharged both A6 and A7 from the charges levelled against

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them. Aggrieved by the findings of the learned Chief Judicial Magistrate No.I, (Special Judge), Dharmapuri at Krishnagiri, the State has preferred this revision.

3.Heard the learned senior counsel Thiru.V.Gopinath appearing for the respondents herein and the learned Additional Public Prosecutor Mr.V.R.Balasubramanian, and considered their respective submissions.

4. The learned senior counsel would contend that the respondents herein viz. A6 & A7 are the contractors, who have been entrusted with the laying of the road in National Highways Shoolagiri section, for about 24 kms by using 91.430 metric tones of bitumen. The learned trial Judge, after going through the statement of the official witnesses and also after perusing the 'M'-Book produced on the side of the prosecution, has come to the conclusion that even the Government officials of the National Highways like Assistant Engineer have admitted that both A6 & A7 have discharged their duty without any fault. The learned senior counsel would point out that the prosecution would rely on the statement of Mr.D.Thirunavukarasu, Deputy Director (Bitumer) of the Highways Research Station, Chennai, and contend that the work done by A6 & A7 are substandard in quality, but the work was completed in the year 1998, but the inspection done by Mr.D.Thirunavukarasu, Deputy Director (Bitumen) of the Highways Research Station, Chennai, was done only in the month of October-2000 and that the road in question was a National Highways, wherein about hundreds of vehicles were plying everyday and it is natural that the road is subjected to natural wear and tear and on that ground it cannot be said that the road was not up to the mark and below the standard to an extent of 5%. The learned Additional Public Prosecutor would fairly concede that after the completion of the work bills presented by A6 & A7 were passed by the department only after satisfying themselves that the work was satisfactorily completed. Under such circumstances, I do not find any reasons to interfere with the orders of the learned Judicial Magistrate No.I, (Special Judge), Dharmapuri at Krishnagiri, in Crl.M.P.No.421 of 2003 in C.C.No.1 of 2003, discharging A6 and A7 from the charges levelled against them since there was no prima facie case made out by the prosecution to proceed against them.

5. In the result, the revision is dismissed confirming the order passed in Crl.M.P.No.421 of 2003 in C.C.No.1 of 2003 on the file of the Chief Judicial Magistrate No.I, (Special Judge), Dharmapuri at Krishnagiri.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To,

1.The Chief Judicial Magistrate No.I,
(Special Judge), Dharmapuri
at Krishnagiri.

2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Dharmapuri.

3.The Public Prosecutor, High Court,
Madras.

1 cc To Mr.M.Selvam, Advocate, SR.33900.

Crl.R.C.No.1690 of 2004

SSV(CO)
RVL 18.06.2007

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